

REMARKS

Claim 69 is pending in the current Application. Claims 1-68 and 70 have been cancelled, without prejudice. Claim 69 has been amended herein. No new matter is believed to be added by these amendments. In addition, unless a passage of an amendment is specifically discussed below in connection with one or more cited references, Applicant respectfully submits that the amendments to the claims should be construed as being submitted merely to clarify the claimed invention rather than as a limitation submitted to overcome a cited reference.

The Examiner has rejected Claim 69 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. Additionally, the Examiner has rejected Claim 69 for failing to particularly point out and distinctly claim the subject matter the Applicant regards as his invention under 35 U.S.C. §112. Furthermore, the Examiner has rejected Claim 69 under 35 U.S.C. §103(a) as unpatentable over Bunting (U.S. Patent No. 6,134,530) in view of Hung et al. (US Patent No. 6,760,429). In this response, Claim 69 is amended in order to further clarify the claimed invention. In view of the Remarks, the Applicant respectfully requests withdrawal of the rejections and allowance of the pending claim.

Rejections under 35 U.S.C. § 101

The Office Action provides that Claim 69 is rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. The Office action provides:

Claim 69 recites a system comprising logic per se. If logic is merely computer code, then the method fails to comprise any physical elements and the claims are directed toward a computer program claimed as a computer listing per se, i.e., the descriptions or expressions of the programs, are not physical “things.” (Office Action, pg. 2).

Applicant respectfully submits that, as amended, Claim 69 recites the physical elements of a computer within a network of computers. For example, as amended, Claim 69 recites a computer within a network of computers receiving session, customer and sales associate

information, where the information is used, in part, to: determine that a customer constitutes a sales opportunity, select a desirable sales associate to assist the customer, retrieve collateral sales material and provide the above information to the sales associate. Applicant respectfully submits that, as amended, Claim 69 recites physical elements and is, therefore, not directed toward a computer program claimed as a computer listing per se.

As the descriptive material of amended Claim 69 is structurally and functionally interrelated to the computer and the information received is functionally manipulated by the computer resulting in a functional change by the computer, Applicant submits that Claim 69 meets every requirement for statutory subject matter. Applicant respectfully requests withdrawal of the rejection of Claim 69 under 35 U.S.C. §101.

Rejections under 35 U.S.C. § 112, Second Paragraph

In the Office Action, Claim 69 was rejected under 35 U.S.C. §112, second paragraph. The Office Action provides:

Claim 69 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention...the limitation “the best sales associates”...[has an] insufficient antecedent basis for this limitation in the claim...[The limitation] “each best sales associate” is unclear. (Office Action, pg. 2-3).

Additionally, the Office Action provides that there is insufficient antecedent basis for the limitations of “the sales associate”, “the matched sales associate”, and “the particular sales opportunity”. (Office Action, pg. 3).

Applicant has amended Claim 69 to overcome the rejections by rephrasing the limitations in question. Support for the amendments can be found throughout the specification and the drawings. Applicant submits that no new matter has been added to the specification. Based on the amendments and these remarks, Applicant respectfully submits that the §112 rejections of Claim 69 has been overcome.

Rejections Under 35 U.S.C. §103(a)

In the Office Action, Claim 69 was rejected under 35 U.S.C. §103(a) as being unpatentable over Bunting et al. (U.S. Patent No. 6,134,530) in view of Hung et al. (US Patent 6,760,429).

Applicant first submits that, for a *prima facie* case of obviousness, the cited prior art references (when combined) “must teach or suggest all the claim limitations” MPEP § 2143. Thus, if the combination of references does not teach each of the claimed limitations, a finding of obviousness fails. In addition, the Patent Office has the burden under § 103 to establish a *prima facie* case of obviousness, which can be satisfied only by showing some objective teaching in the prior art would lead one to combine the relevant teachings of the references. *See In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). As such, an Applicant, to overcome an allegation of obviousness, can show that the cited prior art references (when combined) do not teach or suggest all the claim limitations or that there is not an objective teaching in the prior art that would lead one to combine the relevant teachings of the references.

Independent Claim 69, as amended, recites:

retrieving, by a computer within a network of computers, from a database of collateral sales material, information previously determined to be effective in closing a sale given the selected sales associate’s profile information, the customer profile information and the products the customer is searching; and

providing, by a computer within the network of computers, to the selected sales associate, the session information, the customer information, and the retrieved information.

Applicant submits there is support found for these claim amendments in the specification of the present application. Applicant submits that Bunting alone, or in combination with Hung, fails to teach, suggest or make obvious a method for selling goods and services in conjunction with the internet having the steps as claimed in Claim 69. For example, Applicant respectfully submits that Bunting alone, or in combination with Hung, fails to teach, suggest or make obvious a method for selling goods and services in conjunction with the internet, wherein information,

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previously determined to be effective in closing a sale is retrieved from a database of collateral sales material given the particular selected sales associate, customer and product, and provided to the selected sales associate.

For at least the foregoing reason, all the limitations of amended independent Claim 69 are not taught, suggested or made obvious to one of ordinary skill in the art over Bunting in view of Hung. As such, Applicant respectfully submits that amended Claim 69 is in a form for allowance.

CONCLUSION

In view of the above, the presently pending claim in the Application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass the Application to issue. No additional fees are believed due beyond those that may otherwise be provided for in documents accompanying this paper. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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